

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joseph Z. Wascow
Serial No.: 10/613,717
Conf. No.: 4989
Filed: 7/3/2003
For: CIRCULAR SAW HAVING BEVEL
AND DEPTH OF CUT DETENT
Art Unit: 3724
Examiner: Choi, Stephen

**APPELLANT'S REPLY BRIEF
PURSUANT TO 37 CFR § 41.41**

This is in reply to the Examiner's answer dated June 2, 2009.

The examiner has rejected independent claim 32 under 35 U.S.C. 102(b) as being anticipated by Clark, and claims 32 and 42 as being anticipated by the Japanese '202 patent.

At issue here is the correct interpretation of the **bolded** language of claim 32 below (which is similar to language of claim 42):

32. A circular saw comprising:
a housing;
a motor disposed within said housing and configured for rotating a circular saw blade rotatably driven by said motor;
a foot having a generally flat bottom surface; and
a saw blade adjustment detent mechanism pivotally interconnecting said foot to said housing such that the circular saw blade is adjustable to said foot through a range of saw blade positions relative to said foot, said saw blade adjustment detent mechanism including a detent holding assembly carrying a pivotable saw blade adjustment detent with a pivot axis on one end portion, a transverse ridge spaced from said pivot axis and a spring for biasing said detent into engagement with one of a plurality of spaced position recesses, and an arcuate member defining the plurality of spaced position recesses, each matingly and releasably engageable with said transverse ridge of said saw blade adjustment detent to provide predetermined position settings within said range of positions, **said detent being disengaged from one of said position recesses when said foot is moved responsive to a user applying a releasing force to said foot without initiating any other action.**

In the context of this last paragraph of the claim, the unambiguous language states that a **detent being disengaged from one of said position recesses when said foot is moved responsive to a user applying a releasing force to said foot without initiating any other action.** The normal meaning of the language is that a **detent is disengaged** from one of said position recesses when a user **applies a releasing force** (i.e., one that is sufficient to cause the foot to move to disengage a detent) without the user initiating any other action. It is a cause and effect relationship. The significance of it is that a user can change the depth of cut or bevel angle of the saw by applying a force to the foot without other manipulation.

Neither Clark nor the '202 patent anticipate, teach or suggest this.

The examiner gives several examples how Clark and the '202 patent purportedly anticipate, teach or suggest these claims, but they are actually repeated examples of **other action** that demonstrate these rejections are erroneous.

For example, the examiner states:

Clark teaches a device including a foot (e.g., 22) capable being moved responsive to a user applying a releasing force to the foot to release the foot from a position on a supporting surface to another position on the supporting surface without initiating any other action **while the detent being disengaged from one of the position recesses.**

It is submitted that Clark cannot have this condition achieved **while the detent being disengaged from one of the position recesses** because the claim specifically states that a detent **is disengaged by the user applying a releasing force** etc. To do this **while** the detent is disengaged is contrary to the claim language and would require **other action.**

As another example, the examiner states:

It is noted that the claim 32 does not preclude other releasing force other than a force to release the detent from one of the position recesses. The recitation "a user applying a releasing force" can include **several steps. The user can hold a trigger member to disengage the detent from one of the recesses at the same time (i.e., when) moving or rotating the rest of the saw assembly by applying the releasing force to the foot.**

The claim language is a specific recitation that cannot be anticipated by several steps. Moreover, **having the user hold a trigger member to disengage the detent ...** is clearly **other action**.

As another example, the examiner states:

The claim does not call for "a releasing force" being a force to cause disengagement of the detent. The claim merely calls for the releasing force to move the foot and the detent being disengaged when the foot is moved.

This statement is intellectually dishonest as it paraphrases the language in a manner which distorts its meaning. The claim language does effectively state that a releasing force causes disengagement of the detent.

As another example, the examiner states

Furthermore, '202 patent does teach a device of capable disengaging the detent from one of the position recesses when the foot is moved responsive to a user applying a releasing force to the foot without initiating any other action/ as a direct result of a user applying a releasing force to the foot without initiating any other action. For example, **a user can apply a force to move the foot from a position shown on Figure 4 to left direction while the detent (e.g., 11) being stationary.** Such an action will release the detent from a position shown on Figure 5 to a position shown on Figure 6

This is an impossibility unless **other action** is used to hold the detent 11 stationary. It is completely beyond any reasonable manner of operation and would be considered impractical if not ridiculous by one of ordinary skill in the art.

As another example, the examiner states with regard to the '202 patent:

Moreover, a user can apply a releasing force to the foot without any other action when **other user disengages the detent** from one of the recesses as a direct result of the releasing force.

It is submitted that "other" user, i.e., a user in addition to the user recited in the claim is **other action**. It would be **other action** even if the sole user were to disengage the detent. Of course, it is unnecessary for the sole user to do so as the claimed functionality demonstrates.

As another example, the examiner states with regard to the '202 patent:

In addition, it is the examiner's position the term "**direct result**" is **not limited to only physical/structural interaction between parts. The user can apply a force to move the foot without any other action which directly causes the user to initiate detent disengagement.**

The examiner's position regarding the term "direct result" is not understood, because the claim language is what it is and is limited to the structure and interaction as set forth in the claim.

The second sentence is also not understood, but to the extent it distorts or mischaracterizes the claim language, it is improper and should be dismissed as irrelevant. Neither of the Clark of '202 references anticipate, teach or suggest claims 32 or 42.

For the above reasons, Appellant requests the Board to reverse the outstanding rejections. The application should then be permitted to pass to allowance.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

/ROGER D. GREER/

By

Roger D. Greer
Registration No. 26,174
Attorney for Applicant

August 3, 2009
300 S. Wacker Drive - Suite 2500
Chicago, Illinois 60606-6501
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
Customer No. 24978